

EXHIBIT 2

**Redacted Version
of Document Sought
to be Sealed**

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

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CHASOM BROWN, et al.,)
on behalf of themselves and)
all others similarly)
situated,)

Plaintiffs,) Case No.

) 5:20-cv-03664-LHK

vs.)

GOOGLE LLC,)

Defendant.)

-----)

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Videotaped Zoom Deposition of
LORRAINE TWOHILL
Highly Confidential
Friday, May 6, 2022

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Katy E. Schmidt
RPR, RMR, CRR, CSR 13096
Veritext Job No.: 5211818

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

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CHASOM BROWN, et al.,)
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Plaintiffs,) Case No.

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) 5:20-cv-03664-LHK

vs.)

GOOGLE LLC,)

Defendant.)

BE IT REMEMBERED that, pursuant to Notice, Friday, the 6th day of May, 2022, commencing at 10:10 a.m., thereof, in Atherton, California, before me, KATY E. SCHMIDT, a Certified Reporter in and for the County of Yolo, California, there virtually personally

LORRAINE TWOHILL

called as a witness herein, who, being by me first duly sworn, was thereupon examined and interrogated as hereinafter set forth.

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3 Matthew Gubiotti, In-house counsel

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1 Who is that individual? 11:53

2 A. I honestly don't know. 11:53

3 Q. Do you recognize any of the individuals to 11:53

4 whom Mr. Mardini sent the e-mail? 11:53

5 A. The only name -- 11:54

6 Q. Go ahead. I'm sorry. 11:54

7 A. Sorry. 11:54

8 The only name I recognize here is Parisa. 11:54

9 She's the head of the Chrome product. 11:54

10 Q. That's Parisa Tabriz? 11:54

11 A. Correct. 11:54

12 Q. If you go down to the -- again, focused only 11:54

13 on the top e-mail to numbered paragraph 2, kind of a 11:54

14 bold 2 that begins with the words "This was driven by 11:54

15 Lorraine"? 11:54

16 A. Yeah. 11:54

17 Q. Do you see that? 11:54

18 A. I do. 11:54

19 Q. And let me read it into the record. 11:54

20 "This was driven by Lorraine who told 11:54

21 the PDPO Steering Committee that incognito 11:54

22 might need re-branding so a workstream 11:54

23 ensued involving the brand studio about 11:55

24 two to three weeks ago. Yesterday, at the 11:55

25 PDPO SC meeting, Tom Oliveri was present 11:55

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1 and told them that Sundar didn't want to 11:55
2 put incognito under the spotlight so the 11:55
3 iconography/re-branding should not be an 11:55
4 I slash O topic." 11:55

5 Did I read that correctly? 11:55

6 A. Yes, you did. 11:55

7 Q. Okay. Is Mr. Mardini referencing you when 11:55
8 he says "Lorraine"? 11:55

9 A. Yes. 11:55

10 Q. Does reading that document refresh your 11:55
11 recollection that you had told the PDPO Steering 11:55
12 Committee that incognito might need re-branding? 11:55

13 A. I don't believe this is a correct summary of 11:56
14 the conversation we had at the steering committee. 11:56

15 Q. Was there any discussion at the steering 11:56
16 committee about re-branding incognito in any way? 11:56

17 A. I believe, going from my memory, that there 11:56
18 was a presentation from some members of the team about 11:56
19 whether or not we should look at the re-branding of 11:56
20 incognito in the context of rolling it out to maps, 11:56
21 search, and YouTube. And to also look at the icon. 11:56

22 And I believe that we agreed that we should 11:56
23 look -- do some work to look at whether or not the 11:56
24 icon needed refreshing. 11:56

25 Q. And what precipitated the examination of 11:56

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1 that particular part of the live stream? 11:56

2 A. I'm sorry. I don't -- I didn't hear the 11:56
3 last part of the question. 11:56

4 Q. Yeah. 11:56

5 So what precipitated examining that 11:56
6 particular part? 11:56

7 A. It would be standard practice. If we are 11:57
8 rolling a feature out to new products, we look at the 11:57
9 icon, and we see if the icon still works and if the 11:57
10 icon fits within the new products. It's also an icon 11:57
11 we've been using for a long time. We refresh our 11:57
12 icons a lot. We do it all across all of our top 11:57
13 products. So it would be very much standard practice. 11:57

14 Q. Was there any concern by any employees at 11:57
15 Google that the icon misled users to believe that they 11:57
16 were not being tracked or that any information was 11:57
17 being collected from them while in incognito mode? 11:57

18 A. From my memory, the concern around the icon 11:57
19 was that it was dated, and also that in some places in 11:57
20 some countries it was seen as spy guy, you know, not 11:57
21 necessarily always the most positive icon to use. 11:57

22 Q. Are you aware of any research that -- or 11:58
23 surveys that Google had undertaken to determine 11:58
24 consumer perception of that icon? 11:58

25 A. I believe that the research that the team 11:58

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1 shared in that meeting would have been -- I don't 11:58
2 remember it in detail. I don't remember the research. 11:58
3 But I believe that there were some slides that day 11:58
4 talking about research or summarizing research the 11:58
5 team had done. 11:58

6 Q. And would that research that the team had 11:58
7 done indicate that some consumers were confused about 11:58
8 the use of the icon on the slide screen? 11:58

9 MR. SCHAPIRO: Objection. Vague. 11:58
10 Ambiguous. 11:58

11 THE WITNESS: And I really don't remember. 11:58
12 I'd need to see the research. 11:58

13 BY MR. YANCHUNIS:

14 Q. And in connection with maintenance, Sundar 11:58
15 didn't want to put incognito under the spotlight. 11:58

16 Do you know what that referenced? 11:58

17 A. Again, I'm going from memory, and I don't 11:59
18 remember all the details of that conversation. But I 11:59
19 do know we were preparing for I/O, which is our big 11:59
20 product event, which is -- was a few weeks later, and 11:59
21 were typically only putting a spotlight on new 11:59
22 announcements and new features at I/O. And we were 11:59
23 rolling incognito out to search, maps, and I think it 11:59
24 was YouTube. 11:59

25 And so that was our focus. And we did 11:59

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1 actually, in fact, talk about incognito mode in Chrome 11:59
2 there too. 11:59
3 Q. Okay. And so Sundar, as used in this 11:59
4 e-mail, refers to Sundar Pichai; correct? 11:59
5 A. Correct. 11:59
6 Q. And what is the I slash O? What does that 11:59
7 reference? 11:59
8 A. That's the event I just mentioned, I/O. 11:59
9 It's an event we have once a year. It's actually next 11:59
10 week. It's an event we have once a year where we talk 11:59
11 about product updates. It's usually about 90 minutes 11:59
12 long. It's an important moment for the company. 11:59
13 Q. Okay. And is that given to the general 12:00
14 public or to investors or just internally to employees 12:00
15 at the company? 12:00
16 A. It's -- the main audience are developers and 12:00
17 some press attend too. 12:00
18 Q. Okay. And these developers are individuals 12:00
19 or entities outside of Google's employ? 12:00
20 A. Yes, they are. 12:00
21 Q. Are you familiar with an individual by the 12:00
22 name of Tom Oliveri? 12:00
23 A. Yes, I am. 12:00
24 Q. And what position did Mr. Oliveri hold back 12:00
25 on April 20th -- or excuse me -- April 30th of 2019? 12:00

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1 Q. Do you see on the second page of this 12:10
2 document points under the header "Don'ts"? 12:10
3 A. Mm-hm. 12:10
4 Q. Do you know what are those points? 12:10
5 A. I'm just reading it now. 12:10
6 Okay. 12:10
7 Q. Were those points conveyed to Mr. Pichai? 12:11
8 A. I have no idea. 12:11
9 Q. Would you please read aloud for the record 12:11
10 the first point under "Don'ts"? 12:11
11 A. "Do not use the words private, 12:11
12 confidential, anonymous or off the record 12:11
13 when describing benefits of incognito 12:11
14 mode." 12:11
15 Do you want me to keep going? 12:11
16 Q. Yes, please continue. 12:11
17 A. "These words run the risk of 12:11
18 exacerbating known misconceptions about 12:11
19 protections incognito mode provides (see 12:11
20 misconceptions here)." 12:11
21 Q. And what do you understand that statement to 12:11
22 mean? 12:11
23 A. Honestly, I have no context on this document 12:11
24 and I don't know who wrote it. 12:11
25 Q. You agree with that statement? 12:11

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1 to Mr. Pichai? 12:13

2 A. I'm not familiar with this document. I 12:13

3 think highly unlikely, though, looking at the content. 12:13

4 I think it's including the words he used "at I/O," I 12:13

5 assume it was for somebody else, to brief somebody 12:13

6 else who was doing some more detailed conversations, 12:13

7 and they just included his talking points from I/O as 12:13

8 context is how I'm interpreting this but, again, I'm 12:13

9 looking at it... 12:13

10 Q. In communications with you, whether in 12:13

11 person, over the phone, or by e-mail, that you may 12:13

12 have received or been copied, did Mr. Pichai ever 12:13

13 express any concerns this warning that Google should 12:13

14 not use the word "private" when describing the 12:13

15 benefits of incognito mode? 12:13

16 MR. SCHAPIRO: Objection to the form of the 12:13

17 question. Foundation. 12:14

18 THE WITNESS: And the answer is no. 12:14

19 BY MR. YANCHUNIS: 12:14

20 Q. Did you ever have any conversations with 12:14

21 Mr. Pichai regarding the wording "communicated to 12:14

22 consumers using the incognito mode or private browsing 12:14

23 mode"? 12:14

24 A. No, I did not. I mean, honestly, I've had 12:14

25 very few conversations about incognito mode in my 12:14

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1 19 years in the company. It's -- you know, at my 12:14
2 level, I'm looking at, you know, our biggest products, 12:14
3 not a niche feature of one product. 12:14

4 Q. But in your position, you would be concerned 12:14
5 as to the expectations of privacy that users of a 12:14
6 private browsing mode would have in using it; correct? 12:14

7 A. I mean, it's certainly not on my radar at 12:14
8 all. And from the research I've seen that we've done 12:15
9 in terms of what users care about, they care about 12:15
10 security first and foremost, are they safe? And they 12:15
11 care about privacy at large, i.e., their data 12:15
12 associated with their Google account. 12:15

13 And that's really the extent of how I've 12:15
14 engaged in the privacy and security space. 12:15

15 MR. YANCHUNIS: I think we've been going two 12:15
16 hours. I need to take a convenience break. 12:15

17 Ma'am, do you mind if we go off the record 12:15
18 for a break? 12:15

19 MR. SCHAPIRO: Let's go off the record 12:15
20 and -- but then let's stay on for a second just to 12:15
21 discuss timing. 12:15

22 MR. YANCHUNIS: All right. 12:15

23 THE VIDEOGRAPHER: Going off the record at 12:15
24 12:15 p.m. 12:15

25 (Lunch recess.) 12:58

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1 MR. YANCHUNIS: Let me ask it again. 01:12

2 BY MR. YANCHUNIS:

3 Q. Is it correct that Google for years has been 01:12

4 tracking user conceptions or misconceptions using 01:12

5 private browsing modes? 01:12

6 MR. SCHAPIRO: Objection. Lacks foundation. 01:12

7 THE WITNESS: And I don't know. 01:12

8 (Plaintiffs' Exhibit 9 was 01:12

9 marked for identification.) 01:12

10 MR. YANCHUNIS: Okay. Let me go to a 01:12

11 document which I'll mark for purposes of 01:12

12 identification to your deposition as Exhibit 9. 01:12

13 BY MR. YANCHUNIS: 01:12

14 Q. It's a one-page document, as it's being 01:12

15 populated. It bears the Bates number 848401. 01:12

16 A. I'm just opening it now. 01:13

17 I have it open. 01:13

18 Q. Okay. And this is an e-mail that you 01:13

19 received from Mr. Scott Beaumont on or about 01:13

20 November 21st, 2019 to which you responded on 01:13

21 November 26, 2019; correct? 01:13

22 A. Yes. That's correct. 01:14

23 Q. And at the time that Mr. Beaumont, 01:14

24 Scott Beaumont sent this e-mail to you, he was 01:14

25 president of Google Asia Pacific; correct? 01:14

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1 A. That is correct. 01:14

2 Q. And what was the problem with incognito from 01:14

3 Chrome that you referenced in the e-mail response to 01:14

4 him on November the 26th, 2019? 01:14

5 A. I believe he was speaking about the word 01:14

6 "incognito" as the name of the feature and how that 01:14

7 word is perceived in some of his countries. 01:14

8 Q. And you responded back, "Part of the problem 01:14

9 is that there is heritage in incognito from Chrome." 01:14

10 Did I read that correctly? 01:15

11 A. Yes, you did. 01:15

12 Q. What is the problem that you're referring to 01:15

13 there? 01:15

14 A. Well, it's a good problem. It's a good 01:15

15 problem. 01:15

16 I'm -- as somebody who runs marketing, I'm 01:15

17 typically at the receiving end of requests to rename 01:15

18 or re-brand products and features. And when a feature 01:15

19 has heritage and it's been named for some time, I'm 01:15

20 very loath to change it. 01:15

21 That's why I was saying, part of the problem 01:15

22 here is this feature has heritage, this name has 01:15

23 heritage in Chrome, and you wouldn't want to change 01:15

24 that. 01:15

25 Q. But you went on to acknowledge, did you not, 01:15

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1 they chose incognito? 01:36

2 A. No. That does not ring a bell. 01:36

3 Q. I'll show you a document we'll mark for 01:37

4 purposes of identification in your deposition as 01:37

5 Exhibit 11. There's a Bates range of 406065 through 01:37

6 406070. 01:37

7 (Plaintiffs' Exhibit 11 was 01:37

8 marked for identification.) 01:37

9 THE WITNESS: I'm just opening it up now. 01:37

10 Okay. I have it in front of me now. 01:38

11 BY MR. YANCHUNIS:

12 Q. Okay. This is an e-mail that you wrote and 01:38

13 circulated to various individuals referenced on the 01:38

14 "To" line on January 29th, 2020; correct? 01:38

15 A. Yes. That looks correct. 2021. 01:39

16 Q. And -- yes, ma'am. I'm sorry. 01:39

17 January 29th, 2021. 01:39

18 And what did you write in the "Subject" 01:39

19 portion of the e-mail? 01:39

20 A. I wrote "Today is data privacy day so please 01:39

21 read." 01:39

22 Q. And who are the individuals to whom this 01:39

23 e-mail was sent? 01:39

24 A. To Sundar Pichai, Rahul Roy-Chowdhury, 01:39

25 Jen Fitzpatrick, and Luiz Andre Barroso. 01:39

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1 Q. And what position did Mr. Roy-Chowdhury hold 01:39
2 at that time that you wrote this? 01:39
3 A. He was our VP of privacy. 01:39
4 Q. And what position did Jen -- I'm sorry. 01:40
5 A. Sorry. I was just clarifying. 01:40
6 He was VP of privacy in the product team, 01:40
7 product lead. 01:40
8 Q. And what position did Jen Fitzpatrick hold 01:40
9 at the time you wrote this e-mail? 01:40
10 A. She was his boss, and so she runs what we 01:40
11 call core infrastructure and that includes privacy and 01:40
12 security. 01:40
13 Q. And Mr. Barroso, what position did he hold 01:40
14 at the time? 01:40
15 A. He's a lead engineer on the engineering side 01:40
16 across core infrastructure. And at the time that 01:40
17 included I believe our privacy and security products 01:40
18 related to the Google account. 01:40
19 Q. So it would be true that each of the 01:40
20 individuals to whom this e-mail was sent would be 01:40
21 involved in some aspect of privacy in relation to 01:40
22 individuals using incognito mode; correct? 01:40
23 A. It -- actually, Jen, Rahul, and Luiz are far 01:41
24 more focused on the Google account and privacy related 01:41
25 to the Google account. Incognito mode does not roll 01:41

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1 up to them. It rolls up to the Chrome product team. 01:41

2 Q. Okay. Well, let's rephrase the question 01:41

3 then. 01:41

4 It's true that each of the individuals to 01:41

5 whom this e-mail was sent would have some control over 01:41

6 the privacy of consumer data? 01:41

7 A. Certainly Luiz and Rahul would have some 01:41

8 control over the privacy of user data. 01:41

9 Q. Certainly Mr. Pichai as the CEO of Google; 01:41

10 correct? He controls everybody. 01:41

11 MR. SCHAPIRO: Objection to the form of the 01:41

12 question. 01:41

13 THE WITNESS: Sundar has a very strong 01:41

14 management team and he defers to them, and especially 01:42

15 to technical experts like Luiz and Rahul. 01:42

16 BY MR. YANCHUNIS: 01:42

17 Q. And that team is under his control and 01:42

18 supervision; correct? 01:42

19 A. The team is under his -- the team is 01:42

20 actually under Jen's control and supervision and Jen 01:42

21 reports to Sundar. 01:42

22 Q. If you go to page 2 of the document, which 01:42

23 bears the Bates No. 406066, about two-thirds at the 01:42

24 bottom it says in bold type "Giving users more 01:42

25 transparency and control over their data." 01:42

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1 MR. SCHAPIRO: I'm sorry. What are the last 01:42
2 three digits? 01:42
3 MR. YANCHUNIS: Last three digits, the 01:42
4 second page of the document, 066. 01:42
5 MR. SCHAPIRO: Okay. 01:42
6 THE WITNESS: Yep. 01:43
7 BY MR. YANCHUNIS: 01:43
8 Q. As of January 2020, you believe that Google 01:43
9 should give users more transparency and control over 01:43
10 their data; correct? 01:43
11 MR. SCHAPIRO: Objection. Vague. 01:43
12 THE WITNESS: Actually, the note was written 01:43
13 in 2021. And we do give users a lot of great control 01:43
14 they can use in their activity settings, and that's 01:43
15 really what we were speaking about here. 01:43
16 BY MR. YANCHUNIS: 01:43
17 Q. But you wrote in this e-mail that "users 01:43
18 should have more transparency and control over their 01:43
19 data." 01:43
20 Isn't that what you wrote? 01:43
21 A. First of all, I think it's a section 01:43
22 heading, not a statement. 01:43
23 And secondly, to be clear, my team pulled 01:43
24 together this note for me. So reality is the language 01:43
25 at the very top head of the letter "L" is what I added 01:44

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1 to the note, but the rest of the contents were written 01:44
2 on behalf of me by folks on my team. 01:44

3 Q. But you sent it out to the individuals that 01:44
4 you identified earlier, including Mr. Pichai; correct? 01:44

5 A. That is correct. 01:44

6 Q. You're responsible for the document that you 01:44
7 sent to them; correct? 01:44

8 MR. SCHAPIRO: Objection to the form of the 01:44
9 question. 01:44

10 THE WITNESS: I often have folks on my team 01:44
11 put together some thoughts for me and help my 01:44
12 communications because I'm not the -- 01:44

13 BY MR. YANCHUNIS: 01:44

14 Q. You ever send out -- you ever send out 01:44
15 materials that people prepare for you that you don't 01:44
16 believe in? 01:44

17 A. I defer to the experts on my team, to be 01:44
18 honest. So when they pull together some thoughts for 01:44
19 me, I'll often be helpful and try and share those. 01:44

20 Q. If they go out under your name, to people, 01:45
21 including the CEO of Google, Mr. Pichai, you adopt 01:45
22 those based upon your belief that those people are 01:45
23 responsible for the messaging that you're sending; 01:45
24 correct? 01:45

25 MR. SCHAPIRO: Objection to the form of the 01:45

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1 question. 01:45

2 THE WITNESS: The top of the note, the part 01:45

3 that I wrote, was also summarized in some of the good 01:45

4 work we had done. And I did want to keep Sundar in 01:45

5 the loop on that. 01:45

6 But the primary audience for the note would 01:45

7 have been Rahul, Jen, and Luiz because they're the 01:45

8 ones who do the work. And the authors of the majority 01:45

9 of the note would have been experts in my team who 01:45

10 really understand this stuff much better than I do. 01:45

11 BY MR. YANCHUNIS: 01:45

12 Q. And you weren't disagreeing with anything 01:45

13 that they wrote and prepared for you that you sent out 01:45

14 on this e-mail to Mr. Pichai and others; correct? 01:45

15 A. To be honest, I didn't pay too much 01:46

16 attention to all the detail towards the end. There's 01:46

17 even a section called "Other Random Ideas." Had I 01:46

18 seen that, I would likely have deleted that before it 01:46

19 went to my boss. You know, I was more focused on the 01:46

20 top half of the doc. It's a long doc. 01:46

21 Q. Here's the first sentence -- go to the third 01:46

22 page which bears the Bates Nos. 067... And about the 01:46

23 middle of the page, in bold, section heading says 01:46

24 "Make Incognito Mode Truly Private." 01:46

25 Once you found that, you'll so indicate to 01:47

1 me. 01:47

2 A. I found it. 01:47

3 Q. Okay. Would you read aloud the first 01:47

4 sentence after "Make Incognito Mode Truly Private"? 01:47

5 A. So the document says: 01:47

6 "Make incognito mode truly private by 01:47

7 strengthening it with a free VPN, making 01:47

8 it for signed-in only users only, turning 01:47

9 cookie blocking on by default, ensure 01:47

10 sessions/tabs disappear by default after 01:47

11 period of time, and adding cautionary 01:47

12 language at moments like 3P sign-in." 01:47

13 Q. Has Google implemented these changes to make 01:47

14 incognito truly private? 01:47

15 MR. SCHAPIRO: Objection. Foundation. 01:47

16 THE WITNESS: To be honest, I'm not sure. I 01:48

17 believe we've done the default turning cookie blocking 01:48

18 on, as I think it's on that tab page you spoke about 01:48

19 earlier. And I think you can use the free VPN through 01:48

20 Google one account. I'm not -- I'm not an expert on 01:48

21 that, though. 01:48

22 BY MR. YANCHUNIS: 01:48

23 Q. Has Google implemented any of these changes 01:48

24 to Chrome Incognito Mode? 01:48

25 MR. SCHAPIRO: Objection. Foundation. 01:48

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1 THE WITNESS: Yeah. I believe I just 01:48
2 answered that. The cookie blocking on by default is 01:48
3 in incognito mode. 01:48
4 BY MR. YANCHUNIS: 01:48
5 Q. Was that blocking all cookies or only 01:48
6 third-party cookies? 01:48
7 MR. SCHAPIRO: Objection. Foundation. 01:48
8 THE WITNESS: And I just don't know. I 01:48
9 think it's third party but I'm going from memory. 01:48
10 BY MR. YANCHUNIS: 01:48
11 Q. Read the second sentence on the topic 01:48
12 heading "Make Incognito Mode Truly Private." 01:48
13 A. The "We are limited" sentence? 01:49
14 Q. Yes, ma'am. 01:49
15 A. "We are limited" -- so the document says: 01:49
16 "We are limited in how strongly we 01:49
17 can market incognito because it's not 01:49
18 truly private, thus requiring really 01:49
19 fuzzy, hedging language that is almost 01:49
20 more damaging." 01:49
21 Q. And when you wrote "it's not truly private," 01:49
22 you were referring to Chrome Incognito Mode; correct? 01:49
23 A. Again, like I mentioned earlier, I didn't 01:49
24 actually write this. This is written for me by the 01:49
25 experts in my team on privacy and security. So I 01:49

1 would -- I'd have to guess what they were referring to 01:49
2 here. 01:49
3 Q. Well, is it your understanding reading this 01:49
4 document now that that's a reference to Chrome 01:49
5 Incognito Mode? 01:49
6 A. Yes. I would -- yes. I would read it as 01:49
7 such. 01:49
8 Q. Okay. And you were relying upon the people 01:49
9 who reported to you to write accurate information that 01:49
10 you were passing on to Mr. Pichai; correct? 01:49
11 A. I would trust the team to pull together 01:50
12 ideas in the spirit of a brainstorm. Again, the 01:50
13 context as to why we sent this is because it was 01:50
14 international I think privacy safety day or data 01:50
15 privacy day, and so the team ran a brainstorming 01:50
16 session. 01:50
17 I should be clear that my team are not 01:50
18 technical experts so my team would often have lots of 01:50
19 ideas that are not actually even remotely technically 01:50
20 feasible. For example, the idea in the issue above, 01:50
21 the paragraph you're speaking about, I just had a look 01:50
22 at that one and I think that's a very -- you know, 01:50
23 another idea that's very, very technically complicated 01:50
24 and probably not even, you know, feasible. 01:50
25 Q. And Chrome Incognito Mode has never been 01:50

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1 truly private; correct? 01:50

2 MR. SCHAPIRO: Objection to the form of the 01:50

3 question. Vague. Ambiguous. Foundation. 01:50

4 You may answer. 01:50

5 THE WITNESS: Again, I'm not a product 01:50

6 expert. 01:50

7 BY MR. YANCHUNIS: 01:50

8 Q. I want to take you back to the beginning of 01:51

9 this document, first page. 01:51

10 Do you see after the introduction, "Hi, 01:51

11 folks"? 01:51

12 A. Yes, I do. 01:51

13 Q. Okay. Could you read that paragraph into 01:51

14 the record? 01:51

15 A. So the paragraph says: 01:51

16 "As today is International Data 01:51

17 Privacy Day (check out our homepage) and 01:51

18 Privacy has been on my mind, as well as 01:51

19 all yours for some time, I wanted to share 01:51

20 some thoughts. It's been almost 11 years 01:51

21 since I first spoke at Exec Circle (and 01:51

22 Ben listened) about User Trust and needing 01:52

23 a Google account with controls. And 01:52

24 7 years since I did the User Trust tgif. 01:52

25 I have been doing a lot of thinking (and 01:52

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1 asking) over the years. And we have made 01:52
2 a lot of progress but our challenges are 01:52
3 even greater. We need more velocity! So 01:52
4 since I know you all agree and I know 01:52
5 Sundar that you have been thinking about 01:52
6 this too, I wanted to share my random 01:52
7 thoughts here, as hopefully somewhat 01:52
8 useful and actionable. And yes, there 01:52
9 will be reasons why a lot of this is hard 01:52
10 but we are at our best when solving really 01:52
11 hard problems! And then just maybe we 01:52
12 could get to this vision that we put 01:52
13 together just over a year ago." 01:52

14 Q. I'm going to show you a document I'll mark 01:52
15 as Exhibit 12. 01:52

16 And for the record, it bears the Bates range 01:52
17 of 848444 through 449. 01:52

18 (Plaintiffs' Exhibit 12 was 01:52
19 marked for identification.) 01:52

20 THE WITNESS: Shall I close this one? 01:52

21 BY MR. YANCHUNIS: 01:52

22 Q. You can close that one. Yes, ma'am. 01:52

23 A. So I have it up open in front of me now. 01:53

24 Q. This is an e-mail at the top from 01:53

25 Cassidy Morgan to you and other individuals who are 01:53

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1 copied. It is dated January 15th 2021, which is 01:53
2 approximately 14 days before Exhibit 11 was written. 01:53
3 And my reference to this document for you is 01:54
4 similarity between Exhibits 12 and 11. In other 01:54
5 words, it appears to me, and I'm asking you this 01:54
6 question, if it is in fact correct, that the substance 01:54
7 of Exhibit 12 was reproduced in Exhibit 11 when you 01:54
8 sent that to Mr. Pichai and others? 01:54
9 A. Yes. That's what I was explaining to you a 01:55
10 few minutes ago, that the team pulled together this 01:55
11 doc with all these ideas and I added them to the note 01:55
12 to Sundar. 01:55
13 Q. So, in essence, you read what was sent to 01:55
14 you by Mr. Cassidy and those comments and thoughts, 01:55
15 and put that in the e-mail to Mr. Pichai and others 01:55
16 that we saw in Exhibit 11; correct? 01:55
17 MR. SCHAPIRO: Objection to the form of the 01:55
18 question. 01:55
19 THE WITNESS: I believe actually that 01:55
20 Cassidy and the team wrote the entire draft of the 01:55
21 note to Sundar in the doc. I made some edits to the 01:55
22 top paragraph. And then my assistant would have 01:55
23 probably loaded it in drafts for me to send. 01:55
24 BY MR. YANCHUNIS: 01:55
25 Q. Okay. Go to page 848447 of Exhibit 12. 01:55

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1 And specifically about two-thirds of the 01:55
2 bottom of the page, there's a section called [REDACTED] 01:55
3 [REDACTED] 01:56
4 Do you see that, ma'am? 01:56
5 A. Yes, I do. 01:56
6 Q. Would you please read into the record the 01:56
7 sentence after the bold type [REDACTED]? Both 01:56
8 sentences. 01:56
9 A. So the document says: 01:56
10 [REDACTED] [REDACTED] 01:56
11 [REDACTED] 01:56
12 [REDACTED] 01:56
13 [REDACTED] [REDACTED] 01:56
14 [REDACTED] 01:56
15 [REDACTED] 01:56
16 [REDACTED] 01:56
17 Q. That statement or recommendation did not go 01:56
18 to Mr. Pichai in your e-mail that we saw in 01:56
19 Exhibit 11; correct? 01:56
20 A. I'd have to go back and check. 01:57
21 Q. Okay. We'll populate your screen with 01:57
22 Exhibit No. 11. 01:57
23 MR. SCHAPIRO: Ms. Twohill, I think you can 01:57
24 just go there yourself. 01:57
25 I don't think, John, you have the ability to 01:57

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1 put it on her screen? 01:57

2 MR. YANCHUNIS: Yeah. That's accurate. 01:57

3 MR. SCHAPIRO: So are you asking if you want 01:57

4 her to -- 01:57

5 MR. YANCHUNIS: Yeah, yeah. Go to 01:57

6 Exhibit 11 to find reference to [REDACTED] 01:57

7 THE WITNESS: No. I don't think it's there. 01:58

8 Although I'm not quite sure what [REDACTED] is, but I 01:58

9 don't see it there. 01:58

10 BY MR. YANCHUNIS:

11 Q. Okay. So you took that out of -- from what 01:58

12 your team prepared before you sent that to Mr. Pichai; 01:58

13 correct? 01:58

14 MR. SCHAPIRO: Objection. Misstates the 01:58

15 testimony. 01:58

16 THE WITNESS: I'm not sure that that was 01:58

17 something that I even looked at or took in or put out. 01:58

18 I think that Cassidy might have shortened this doc or 01:58

19 added more to it or structured this doc with the team 01:58

20 before it shipped. 01:58

21 MR. YANCHUNIS: Why don't we take a break. 01:58

22 I think we've got about an hour left, Andy. So it 01:58

23 would be helpful for me to kind of marshal my 01:58

24 resources and figure out what I can do in that hour. 01:59

25 MR. SCHAPIRO: That's fine with us. Sure. 01:59

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1 THE VIDEOGRAPHER: Going off the record at 01:59
2 1:59 p.m. 01:59
3 (Break taken in proceedings.) 01:59
4 THE VIDEOGRAPHER: We are back on the record 02:17
5 at 2:17 p.m. 02:17
6 (Plaintiffs' Exhibit 13 was 02:17
7 marked for identification.) 02:17
8 BY MR. YANCHUNIS: 02:17
9 Q. Ms. Twohill, I'll show you a document that's 02:17
10 been marked for identification purposes to your 02:17
11 deposition as Exhibit 13. It bears a Bates range of 02:17
12 696977 through 696981. 02:17
13 And I'm going to ask you about the e-mail on 02:17
14 the first page. 02:17
15 A. Just opening it now. 02:17
16 Okay. Yes, I've got it open. 02:18
17 Q. Okay. You see at the bottom of that page 02:18
18 the e-mail that we saw in Exhibit 12 -- or excuse 02:18
19 me -- Exhibit 11 to Mr. Pichai and others? 02:18
20 A. Yes, I do. 02:18
21 Q. Okay. And then Mr. Barroso responded to you 02:18
22 on January 29th, 2021; correct? 02:18
23 A. Yes. That is correct. 02:18
24 Q. And he says -- and I'll read the first 02:18
25 sentence: 02:18

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1 "Hi, Lorraine. I've been saying to 02:18
2 people behind your back that you are the 02:18
3 most indispensable voice in 02:18
4 privacy council, and it is really great to 02:18
5 read this." 02:19

6 Would you agree with Mr. Barroso that you 02:19
7 were the most indispensable voice in the privacy 02:19
8 council back in 2021 when he wrote it? 02:19

9 A. That was very kind of him. I definitely am 02:19
10 not the most indispensable voice. A lot of it's very 02:19
11 technical. I try and add value where I can. I think 02:19
12 he was being very sweet. 02:19

13 Q. Would it be fair to say that you were or are 02:19
14 an important voice in privacy council when it existed 02:19
15 before it was changed? 02:19

16 A. It would depend on the topic. So a lot of 02:19
17 the topics are very technical, but to the extent that 02:19
18 we're covering a topic that I would have an opinion 02:19
19 on, for sure I would speak up. 02:19

20 Q. Okay. And you responded to him, did you 02:19
21 not, on February 1st, 2021? 02:19

22 A. I'm just checking the date here. 02:19
23 Yes, I did. 02:19

24 Q. Okay. And in the second line -- and let me 02:19
25 read it into the record. 02:19

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1 "I spoke with SP on other stuff on 02:20
2 Friday and I asked him to keep pushing the 02:20
3 PAs to help. They need to care." 02:20
4 Did I read that correctly? 02:20
5 A. Yes, you did. 02:20
6 Q. Okay. And "SP" refers to Sundar Pichai; 02:20
7 correct? 02:20
8 A. Yes, it does. 02:20
9 Q. The PAs that is referenced in that sentence, 02:20
10 what does that stand for? Or who are those folks? 02:20
11 A. That is the product areas. The company's 02:20
12 structured with a number of different product areas 02:20
13 and the leads of each of those product areas really 02:20
14 manage and control what happens across all of their 02:20
15 products and features. 02:20
16 Q. And why did you ask Mr. Pichai to keep 02:20
17 pushing the PAs to help? 02:20
18 A. Because they're busy. They have a lot on 02:20
19 their roadmaps. They're always launching new 02:20
20 products, new features. And so just encouraging them 02:21
21 to think about building privacy in as they build new 02:21
22 products and features. 02:21
23 So part of -- if you look at the top part of 02:21
24 Exhibit 11, a lot of what I was speaking about is more 02:21
25 comms through our products. It's also rolling out our 02:21

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1 "Safer with Google" narrative across our products. 02:21

2 And part of that framework was to build products from 02:21

3 the get-go with privacy built in related to your 02:21

4 Google account, and all of that work. 02:21

5 And that was what I was referencing. 02:21

6 Q. And did that include pushing the PAs to help 02:21

7 with changes to Chrome Incognito Mode to make it truly 02:21

8 private? 02:21

9 A. I really don't think we ever discussed 02:21

10 incognito mode in that context. 02:21

11 The work I've done with Luiz and Rahul and 02:21

12 Jen was all around the user settings. And especially 02:21

13 the work we're launching at I/O, which was auto 02:21

14 delete, location history, user settings across search 02:21

15 history, video history. And really all of that work 02:22

16 that we've done over the years. 02:22

17 Q. Do you know if Mr. Pichai did it as you 02:22

18 asked him to? 02:22

19 A. I have no idea. 02:22

20 Q. Let me direct your attention to Exhibit 14. 02:22

21 It's a document which contains a Bates range of 02:22

22 4739271, through 4739316. And I only have a few 02:22

23 questions about a few pages in that document. 02:22

24 A. Okay. Just opening it. 02:22

25 /// 02:23

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1 (Plaintiffs' Exhibit 14 was 02:23
2 marked for identification.) 02:23
3 BY MR. YANCHUNIS: 02:23
4 Q. And I'll represent to you, ma'am, that this 02:23
5 is a document that was produced from your files by 02:23
6 Google's counsel in connection with discovery in this 02:23
7 case. 02:23
8 A. I have a lot of documents shared with me on 02:23
9 a daily basis. 02:23
10 Q. Do you recognize this document? 02:23
11 A. No, I don't. But I'm just looking through 02:23
12 it now. It feels like my team's work. 02:23
13 Yeah. I'm familiar with some of the work in 02:23
14 this document for sure. 02:24
15 Q. I see it's titled -- at least the 02:24
16 significant heading on the first slide is "Safer with 02:24
17 Google, I/O, Data Transparency" -- 02:24
18 A. Yeah. 02:24
19 Q. -- Privacy Council, February 8, 2021." 02:24
20 Does that refresh your recollection as to 02:24
21 what this document was or prepared for? 02:24
22 A. Yes. It's clearly a document for the 02:24
23 privacy council. It covers -- I guess it covers the 02:24
24 three topics we were covering at privacy council that 02:24
25 week. I don't remember in detail. 02:24

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REPORTER'S CERTIFICATE

---oOo---

STATE OF CALIFORNIA)
) ss.

COUNTY OF YOLO)

I, KATY E. SCHMIDT, a Certified Shorthand
Reporter in and for the State of California, duly
commissioned and a disinterested person, certify:

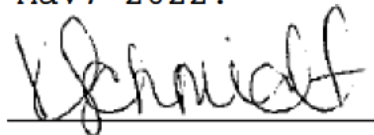
That the foregoing deposition was taken before
me at the time and place herein set forth;

That LORRAINE TWOHILL, the deponent herein, was
put on oath by me;

That the testimony of the witness and all
objections made at the time of the examination were
recorded stenographically by me to the best of my
ability and thereafter transcribed into typewriting;

That the foregoing deposition is a record of
the testimony of the examination.

IN WITNESS WHEREOF, I subscribe my name on this
10th day of May, 2022.



Katy E. Schmidt, RPR, RMR, CRR, CSR 13096
Certified Shorthand Reporter
in and for the
County of Sacramento,
State of California

Ref. No. 5211818 KES